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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,771	01/22/2004	Mehryar Khalili Garakani	2705-318	7533
20575	7590	09/20/2005		
MARGER JOHNSON & MCCOLLOM, P.C. 210 SW MORRISON STREET, SUITE 400 PORTLAND, OR 97204				
			EXAMINER ABELSON, RONALD B	
			ART UNIT 2666	PAPER NUMBER

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/763,771

Applicant(s)

GARAKANI ET AL.

Examiner

Ronald Abelson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7/28/2005.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-4, 7, 8, 11-16, and 21-22 rejected under 35 U.S.C. 103(a) as being unpatentable over Lazarus (US 20030206563).

Regarding claims 1, 2, 13, 14, and 21, Lazarus teaches a method of operating a gateway (fig. 1 box 120B) when a first client (fig. 1 box 105) places a call to a second client (fig. 1 box 110) in audio mode (fig. 2 box 215, optimize for voice communications, col. 3 [0025]), causing second client to generate an answer tone (fig. 1 box 110, col. 3 [0025], tone is detected), and said gateway detecting said answer tone causing said gateway to switch to Voice Band Data (VBD) mode (fig. 2 box 245, col. 3 [0025]).

Although Lazarus teaches using a longer buffer in the VBD/fax mode (longer jitter buffer [0024]), the reference does

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not explicitly state when the gateway switches from the audio to VBD mode, the jitter buffer size is adjusted via the steps detecting the previous length of the play-out buffer in the previous audio mode; adding a dilation factor to said previous length to obtain a new length, and setting said play-out buffer to said new length.

However, Lazarus does teach the steps detecting the previous length of the play-out buffer in the previous audio mode; adding a dilation factor to said previous length to obtain a new length, and setting said play-out buffer to said new length (adaptive jitter buffers [0024]). The examiner maintains that the system must detect the length of the previous adaptive jitter buffer in the audio mode. If this were not the case, the system would not know how many memory units to add/subtract to change the buffer size from the previous adaptive audio jitter buffer size to the current adaptive jitter buffer size. The dilation factor of Lazarus is the difference between the adaptive buffer sizes.

Therefore it would have been obvious to one of ordinary skill in the art, to modify the system of Lazarus by using a single jitter buffer in both the audio and VBD modes and switching the jitter buffer size according to the steps of detecting, adding, and setting as shown by Lazarus. This

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modification can be performed by using an adaptive jitter buffer. This would benefit the system by not requiring separate jitter buffers for the audio and VBD modes.

Regarding claims 3, 4, 15, 16, and 22, the length of the play-out buffer in audio mode is set adaptively (voice activity, adaptive jitter buffers, [0024]).

Regarding claims 7 and 8, switch from audio mode to VBD mode occurs when a first client places a call to a second client and said second client generates an answer tone (fig. 2 boxes 240, 245).

Regarding claims 11 and 12, said gateway detects said answer tone (fig. 1 box 135, fig. 2 box 240, pg. 3 [0025] and therefore initiates switch from audio mode to VBD mode (fig. 2 box 245).

3. Claims 5, 6, 9, 10, 17-20, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lazarus as applied to claims 1, 2, 3, 4, 13, 14, 15, 16, and 21 respectively, and further in view of Chan (US 6,826,177).

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Lazarus is silent on audio / loss concealment techniques are used to fill any gaps caused by the change in length of the play-out buffer.

Chan teaches loss concealment to fill produce transitions when the network loses a packet (col. 9 lines 59 - col. 10 line 4).

Therefore it would have been obvious to one of ordinary skill in the art, to modify the system of Lazarus by incorporating the loss concealment algorithm of Chan in the playout buffer of Lazarus. This modification can be performed in software. This would improve the system by producing transitions less distracting than pure silence (Chan: col. 9 lines 59 - col. 10 line 4).

Response to Arguments

4. Applicant's arguments, see pg. 6-7 filed 7/28/2005, with respect to amended claims 1-4, 21, and 22 have been fully considered and are persuasive. The rejection of the claims with respect to Helms has been withdrawn due to the amendment of the claims.

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5. Applicant's arguments, see pg. 7-8, filed 7/28/2005, with respect to the rejection(s) of claim(s) 1,2,7,8,11-14, and 21 under 102(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Lazarus. The examiner agrees with the applicant that Lazarus does not explicitly state the "longer jitter buffer" is obtained by adding a "dilation factor". However, Lazarus does teach an adaptive jitter buffer. Therefore, the examiner maintains a 103 rejection with respect to Lazarus is appropriate.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald Abelson whose telephone number is (571) 272-3165. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on (571) 272-3174. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RA
Ronald Abelson
Examiner
Art Unit 2666

Ron abelson
